

**ADD THE FOLLOWING NEW SECTION TO TITLE 10, CHAPTER 18
SUPPLEMENTARY STANDARDS APPLICABLE TO CERTAIN USES
MILLARD COUNTY ZONING ORDINANCE**

10-18-24—Animal Confinement Activities (AFO and CAFO):

This Section provides standards for the establishment and operation of Animal Feeding Operations (“AFO”), including Concentrated Animal Feeding Operations (“CAFO”). The provisions of this Section are found to implement the applicable goals and policies of the Millard County General Plan and to be consistent with all Federal and State requirements, as applicable.

- 1) Classification of Animal Confinement Operations. For the purposes of this Section, and this Ordinance, AFOs be classified as follows:
 - a) Level 1: Any confinement of ten (10) or less animal units of all animal species combined.
 - b) Level 2: Any AFO where:
 - i) more than ten (10) but fewer than three hundred (300) animal units are kept at the same time for a more than forty five (45) days out of any calendar year; and
 - ii) does not also meet the definition of a CAFO.
 - c) Level 3: Any AFO where:
 - i) more than three hundred (300) animal units are kept at the same time for more than forty five (45) days out of any calendar year; and
 - ii) does not also meet the definition of a CAFO.
 - d) Level 4: Any AFO meeting the definition of a CAFO, as provided by the State of Utah or is designated by the Executive Secretary of the Utah Department of Environmental Quality – Division of Water Quality.
- 2) Requirements, Application and Approval. The establishment and operation of an AFO shall be subject to the following:
 - a) No permit shall be required for construction or operation of a Level 1 AFO.
 - b) No Level 2 AFO shall be constructed, established, or operated, in the RF or AI zoning districts unless a Permitted (P) Use Permit is issued in compliance with the provisions of

this Section and Title 10, Chapter 7 herein.

- c) No Level 2 shall be constructed, established, or operated, in the AG-20 or AG zoning districts unless a Conditional (C-1) Use Permit is issued in compliance with the provisions of this Section and Title 10, Chapter 8 herein.
 - d) No Level 3 AFO shall be constructed, established, or operated, unless a Conditional (C-1) Use Permit is issued in compliance with the provisions of this Section and Title 10, Chapter 8 herein.
 - e) No Level 4 AFO shall be constructed, established, or operated, unless a Conditional (C-2) Use Permit is issued in compliance with the provisions of this Section and Title 10, Chapter 8 herein.
 - f) No AFO shall be constructed or established and no AFO shall be permitted to operate, or increase the number of animals confined, without submitting the appropriate Permitted Use Application or Conditional Use Permit Application and receiving the necessary Permit approval from the Land Use Authority, as applicable.
 - g) A legally existing AFO located in a zoning district where an AFO is not allowed by the provisions of this Section, or this Ordinance, may continue as a legal nonconforming use. Such AFO shall not increase the number of animals confined unless the necessary Conditional Use Permit is issued.
 - h) An illegally existing AFO shall remain an illegal use and subject to the County's enforcement provisions.
- 3) Application Requirements. In addition to the standards and requirements of a Permitted (P) Use Application, Conditional (C-1) Use Application, or Conditional (C-2) Use Application, as applicable, the following shall also apply to all Applications to establish and operate an AFO:
- a) Preapplication Conference. Before submitting an Application to establish and/or operate an AFO, the applicant shall schedule and hold a preapplication meeting with the County Planner to discuss the proposed AFO and to review the application process. The County Planner shall provide the applicant with a compliance checklist identifying the requirements of the application and approval procedure, and a flow chart of the approval process. The applicant shall provide information at the preapplication conference regarding the proposed number of animal units to be confined in the AFO, the proposed location of the AFO, and the intended development schedule.
 - b) Land Use Application. All Applications to establish a AFO shall, in addition to the

Permitted or Conditional Use Application materials required provide the following additional information;

- i) The location and total size of all animal confinement areas and the maximum number of animal units proposed to be confined
- ii) The location of any incorporated towns, schools, churches, public or private parks, and subdivisions within one-half (½) mile of the proposed AFO.
- iii) The location of all inhabited dwellings located closer than six hundred sixty feet (660') from any facilities that will constitute any part of the animal confinement, feed storage or processing, or manure handling facilities and lagoons.
- iv) The location of all public roads and highways within three hundred feet (300') of the land upon which the AFO will be located.
- v) The location of any existing wells and the boundary of any public water system source protection zones located within three hundred feet (300') of the boundary of the land on which the AFO will be developed.
- vi) The name of the person (or persons) or entity (or entities) that will be responsible for managing the AFO.
- vii) For all Level 3 AFOs, the application shall also include:
 - (1) Written evidence of water rights available and necessary for the AFO and plans for the development of any water systems that will serve the AFO, including an estimate of the total annual quantity of water to be used.
 - (2) Plans for controlling dust generated during construction and operation of the AFO.
 - (3) A copy of mortality/dead animal disposal plan.
 - (4) A plan to prevent or mitigate the effects of odors from the AFO on lands where uses presently exist that may be affected by the AFO.
 - (5) Plans for controlling insects, rodents, or other undesirable animal species that may result from operation of the CAFO.
 - (6) The access road(s), existing or proposed, for trucks and all other regular vehicular

traffic to and from the AFO.

(7) The total number of animals to be located on the AFO estimated as closely as possible for the next five (5) years.

(8) A manure disposal plan.

viii) In addition to the Application requirements for a Level 3 AFO all Applications to establish a Level 4 AFO (CAFO) shall include:

(1) All Applications submitted to the Utah Department of Environmental Quality, or if none have yet been submitted, the expected date on which all such applications will be submitted.

(2) The expected number of persons necessary to operate the Level 4 AFO (CAFO).

(3) The estimated investment in the Level 4 AFO (CAFO) if it is constructed as set forth in the proposal.

4) Fees: Fees for the review and processing of all Permitted Use Applications and Conditional Use Applications involving an AFO shall be in accordance with Chapter 2, Administrative Manual. The application fee shall be based on the maximum number of animal units to be maintained in the AFO. Any Permitted (P) Use Permit, Conditional (C-1) Use Permit or Conditional (C-2) Use Permit issued for the AFO shall not provide for more animals than the number on which the fee is based, unless the fee amount for additional animals is paid prior to permit approval. In the event that additional assistance is required to review the application, the county may, at its discretion, require the applicant to pay all or a portion of the professional fees incurred by the county for this service.

5) Filing Land Use Application. All Permitted Use Applications and Conditional Use Applications shall be submitted to the County Planner who shall determine the application complete as required by Chapter 2, Administrative Manual.

6) Application Review.

a) All Permitted (P) Use Applications to establish and/or operate a Level 2 AFO shall be reviewed as required by this Section and Title 10, Chapter 7 herein.

b) All Conditional (C-1) Use Applications and all Conditional (C-2) Use Applications, as applicable, to establish and/or operate a Level 2, Level 3 or Level 4 AFO shall be reviewed as required by this Section and Title 10, Chapter 8 herein.

- 7) Site Selection Criteria and Required Minimum Separation. No AFO shall be constructed, or allowed to operate, except on sites meeting the minimum site selection criteria set out in this Section, except for those that qualify as a legal nonconforming use under this Ordinance. The minimum site requirements and separation distances are:
- a) No AFO shall be located within the source protection area of a public drinking water supply system, except for a public water supply system constructed and operated solely for the benefit of the AFO.
 - b) All roads, streets, and other accesses providing access for vehicles to the AFO shall be sufficient for the type and volume of traffic necessary for operation of the AFO, or adequate provision shall be made to improve such roads, streets, and accesses as part of the AFO approval.
 - c) The AFO shall have sufficient lands for application of manure nutrients, unless the AFO will utilize other manure management systems such as systems providing nutrient reduction or processing of manure components. When required either by Utah law or by conditions of approval, an approved comprehensive nutrient management plan (CNMP) shall be prepared for the AFO, and arrangements shall be made for the use of lands to be used as part of the CNMP.
 - d) All utility services must be sufficient for the AFO, or provision must be made for such utility services to be provided.
 - e) There must be an adequate water supply for the AFO, with sufficient water rights either by contract or by rights appurtenant to the AFO lands.
 - f) Required Minimum Separation Distances. The following minimum separation distances shall apply to all AFOs:
 - i) The setbacks for land improvements used in a Level 1 and Level 2 AFO shall be the setback requirements required by the zoning district.
 - ii) In addition to the setback requirements of the zoning district all Level 3 and Level 4 AFOs shall comply with the following minimum separation distances:
 - (1) No corral, building or structure which houses or is intended to house any livestock or any manure storage area or waste lagoon shall be located closer than one-half (½) mile from the property or boundary line of the nearest incorporated town, school, church, public park, or platted subdivision.

- (2) No corral, building or structure which houses or is intended to house livestock or any manure storage area or manure treatment lagoon shall be located closer than fifty feet (50') from the property line of the AFO facility.
- (3) All corrals, buildings, or structures which house or are intended to house any livestock, and all manure storage areas and manure treatment lagoons shall be located at least one hundred feet (100') from the centerline of any road used by the public for general travel, except state and federal highways, for which the minimum separation distance shall be two hundred feet (200') from the centerline.
- (4) The closest inside edge of the retaining wall of any manure treatment lagoon, or outside wall of a milking barn, or the outside edge of any corral or manure storage area shall be at least six hundred sixty feet (660') from the nearest inhabited dwelling, other than dwellings for the owner or employees of the AFO, or for which an appropriate easement has been obtained.
- (5) No AFO structures which house, or are intended to house, livestock or any other contamination sources may be located within one hundred feet (100') of an existing well unless grouting or other wellhead protection approved by the appropriate State of Utah agency has been implemented.
- (6) For a Level 4 AFO, the required minimum separation distance shall increase from six hundred sixty feet (660') at the rate of one hundred feet (100') for each additional one hundred (100) animal units to a maximum of one and one-half (1.5) miles.
- g) The Planning Commission in considering and deciding a Conditional Use (C-1) Level 3 AFO Application, and the Planning Commission in recommending, and the County Commission in considering and deciding a Conditional Use (C-2) Level 4 AFO Application, may modify the minimum separation distances, required by this Section, for a Level 3 AFO or Level 4 AFO if it can be shown, by substantial evidence presented to the Planning Commission and County Commission, that the purposes of this Ordinance, as provided by Section 10-1-4 can be secured, and the health, safety, and welfare of the citizens and businesses of Millard County is protected.
- 8) State Permits. Before the Land Use Authority, as applicable, approves a Permitted (P) Use Application, Conditional (C-1) Use Application or Conditional (C-2) Use Application to establish and/or operate an AFO, the owner shall obtain all of the necessary permits and licenses, as required by the State of Utah.

*Millard County Planning Commission Recommendation to the Board of County Commissioners
Providing a New Section to the Millard County Zoning Ordinance related to Animal Feeding
Operations and to be Codified as new Section 10-18-24, Millard County Zoning Ordinance
8/7/2013*

- 9) Before a Land Use Application to establish or operate a Level 4 AFO is determined complete by the County Planner, the applicant shall provide evidence that the following Utah State agencies have been notified either in writing, or have been furnished a copy of the Land Use Application:
 - a) Utah Department of Agriculture.
 - b) Utah Department of Environmental Quality, Division of Water Quality.
 - c) Utah Department of Environmental Quality, Division of Air Quality.
 - d) Utah Department of Environmental Quality, Division of Solid and Hazardous Waste.
 - e) Utah Department of Environmental Quality, Division of Drinking Water if the AFO proposes to use a water system that would become regulated as a public drinking water system under Utah Administrative Code.
 - f) Central Utah Public Health Department if the AFO proposes to use a private wastewater treatment system.
- 10) Minimum Design and Operational Requirements. In addition to minimum separation distances, the design and management practices of all AFOs can significantly influence the effects such facilities have on other land uses.
 - a) It shall be unlawful to operate a Level 2, Level 3 or Level 4 AFO without obtaining the necessary Land Use Application approval as required by this Section and this Ordinance.
 - b) It shall be unlawful to operate a Level 2, Level 3 or Level 4 AFO in violation of any requirement or condition of approval or any other Federal or State requirement
 - c) It shall be unlawful to operate a Level 2, Level 3 or Level 4 AFO without the necessary State of Utah permits and licenses, or in noncompliance with such permits or licenses.
- 11) Incompatible Uses. If any non-AFO, or incompatible land use locates within the required separation distances of any AFO as set forth herein, or if any such non-AFO locates within a separation distances which the AFO would be required to maintain if it were designed for a greater number of animal units, the non-AFO may not maintain an action for nuisance or to compel the County to enforce this Section with respect to the AFO. Further, the separation distance requirements for AFOs set forth in this Section shall be determined at the time the AFO is permitted and shall not apply to other uses that encroach on the AFO after the AFO has been issued a valid Land Use Permit.

**ADD THE FOLLOWING NEW DEFINITION TO CHAPTER 17
 DEFINITIONS, ADMINISTRATIVE MANUAL**

Animal Unit. A unit of measurement for determining the capacity of any AFO calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 1.8, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. The animal unit value to be given to other species of animals may be established by County Ordinance. In general, an "animal unit" is intended to represent one thousand (1,000) pounds of live animal weight with such adjustments as necessary to address the treatment method and characteristics of the animal manure from a particular species. This is summarized in the following table:

<u>Animal Type</u>	<u>Head/Animal Unit</u>
Feeder Cattle	1.0
Dairy Cattle	1.4
Swine (over 55 lbs.)	1.8
Sheep	0.1
Horses	2.0
Chickens	0.01
Turkeys	0.018

Animal Confinement. Shall mean the housing or confinement of animals and fowl within an area identified for the particular species.

<u>Animal or Fowl</u>	<u>Area</u>
Chickens	Less than or Equal to 9 square feet/Chicken
Rabbits	Less than or Equal to 9 square feet/Rabbit
Pigs	Less than or Equal to 225 square feet/Pig
Sheep	Less than or Equal to 360 square feet/sheep
Horses	Less than or Equal to 2,100 square feet/horse
Beef Cows	Less than or Equal to 2,300 square feet/cow
Dairy Cows	Less than or Equal to 3,000 square feet/cow

REVISE APPENDIX A

TABLE OF USES AND ACCOMPANYING USE DEFINITIONS, ZONING ORDINANCE AS FOLLOWS

USE								
	RF	AG - 20	AG	AI	R1	HC	LI	HI
Animal Feeding Operation (AFO). A facility that stables, confines, and feeds or maintains livestock in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure. An AFO may also be a Concentrated Animal Feeding Operation (“CAFO”). (See CAFO). An AFO may be subject to the requirements of the Utah Pollutant Discharge Elimination System (UPDES).	X	X	X	C-1	X	X	X	X
Animal Feeding Operation. Includes both Animal Feeding Operation (AFO) and Concentrated Animal Feeding Operation (CAFO), as defined by the State or Utah Administrative Code.								
1. <u>Level 1 Animal Feeding Operation. The confinement of ten (10) or less animal units of all animal species combined.</u>	P	P	P	P	X	X	X	X
2. <u>Level 2 Animal Feeding Operation. A location where: (i) more than ten (10) but fewer than three hundred (300) animal units are kept at the same time for a total of more than forty five (45) days out of any</u>	P	<u>C-1</u>	<u>C-1</u>	P	X	X	X	X

Millard County Planning Commission Recommendation to the Board of County Commissioners

Providing a New Section to the Millard County Zoning Ordinance related to Animal Feeding Operations and to be Codified as new Section 10-18-24, Millard County Zoning Ordinance

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<u>calendar year; and (ii) does not also meet the definition of a "CAFO."</u>								
3. <u>Level 3 Animal Feeding Operation.</u> <u>A location where: (i) more than three hundred (300) animal units are kept at the same time for more than forty five (45) days out of any calendar year; and</u> <u>ii) does not also meet the definition of a "CAFO."</u>	<u>C-1</u>	<u>C-1</u>	<u>C-1</u>	<u>C-1</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
b) <u>Level 4 Animal Feeding Operation.</u> <u>Any AFO meeting the definition of a CAFO, as provided by the State of Utah or is designated by the Executive Secretary of the Utah Department of Environmental Quality – Division of Water Quality.</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C-2</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>